

ESTTA Tracking number: **ESTTA616394**

Filing date: **07/18/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

| | |
|---------------------------------------|---|
| Name | New York Yankees Partnership |
| Granted to Date of previous extension | 07/20/2014 |
| Address | Executive Offices - Yankee Stadium One East 161st Street Bronx, NY 10451 UNITED STATES |
| Attorney information | Lindsay M. Rodman Cowan, Liebowitz & Latman, P.C. 1133 Avenue of the Americas New York, NY 10036 UNITED STATES lmr@cjl.com, jmn@cjl.com, trademark@cjl.com |

Applicant Information

| | | | |
|------------------------|--|------------------------|------------|
| Application No | 86051614 | Publication date | 01/21/2014 |
| Opposition Filing Date | 07/18/2014 | Opposition Period Ends | 07/20/2014 |
| Applicant | Nicholas Gamarello Apparel/Arts Brand, LLC Suite 210 New York, NY 10018 UNITED STATES | | |

Goods/Services Affected by Opposition

Class 025. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Clothing, namely, tee shirts, shirts, tank tops, sweatshirts, sweatpants, pants, jeans, jackets, coats, hats; footwear, namely, shoes, sneakers and boots

Grounds for Opposition

| | |
|-------|-------------------------------|
| Other | Please see attached pleading. |
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| Attachments | YANKEE DOG NOO.pdf(97528 bytes) YANKEE DOG - Letter to Commissioner re Notice of Opposition.pdf(136690 bytes) |
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address

record by First Class Mail on this date.

| | |
|-----------|-------------------|
| Signature | /Lindsay Rodman/ |
| Name | Lindsay M. Rodman |
| Date | 07/18/2014 |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application Serial Nos. 86/051,614
Filed: August 29, 2013
For Mark: YANKEE DOG
Published in the Official Gazette: January 21, 2014

| | | |
|---------------------------------|---|-----------------------------|
| -----X | | |
| NEW YORK YANKEES PARTNERSHIP, | : | |
| | : | Opposition No. |
| Opposer, | : | |
| v. | : | <u>NOTICE OF OPPOSITION</u> |
| | : | |
| NICHOLAS GAMARELLO APPAREL/ARTS | : | |
| BRAND, LLC, | : | |
| Applicant. | : | |
| -----X | | |

Commissioner for Trademarks
Attn: Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Opposer, New York Yankees Partnership (“Opposer”), an Ohio limited partnership, with offices at Executive Offices, Yankee Stadium, One East 161st Street, Bronx, New York 10451, believes that it will be damaged by registration of the standard character word mark YANKEE DOG (“Applicant's Mark”) in International Class 25 for “Clothing, namely, tee shirts, shirts, tank tops, sweatshirts, sweatpants, pants, jeans, jackets, coats, hats; footwear, namely, shoes, sneakers and boots” as shown in Application Serial No. 86/051,614 (the “Application”), and having been granted extensions of time to oppose up to and including July 20, 2014, hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of the renowned NEW YORK YANKEES MAJOR LEAGUE BASEBALL club (the “Club”).

2. Since long prior to August 29, 2013, Applicant's constructive first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have used the names or marks YANKEES and YANKEE, alone or with other word, letter and/or design elements in connection with baseball games and exhibition services, and a wide variety of goods and services including, but not limited to, apparel, including, without limitation, shirts, t-shirts, tank tops, sweatshirts, shorts, pants, sweatpants, jackets, hats, baseball caps, and footwear; jewelry; paper goods and printed matter; toys and sporting goods; and novelty items and the name and mark YANKEE has been used by the press, the media, the fans and the public to refer to the Club's individual players, coaches and managers ("Opposer's YANKEES Marks").

3. Opposer owns U.S. federal registrations and applications for Opposer's YANKEES Marks in International Classes 6, 9, 14, 16, 18, 20, 21, 24, 25, 26, 28, 30, 34, 36 and 41, namely, Registration Nos. 1,032,767, 1,073,346, 1,161,865, 1,542,501, 1,550,798, 1,671,731, 2,575,644, 2,843,353, 2,858,237, 2,866,959, 2,867,047, 2,867,048, 2,886,760, 2,889,384, 2,940,306, 2,970,918, 2,994,114, 3,022,847, 3,022,848, 3,191,653, 3,320,068, 3,320,069, 3,320,070, 3,326,223, 3,326,224, 3,326,225, 3,331,059, 3,345,306, 3,718,515, 4,102,184, 4,189,215 and 4,210,824. Registration Nos. 1,032,767, 1,073,346, 1,161,865, 1,542,501, 1,550,798, 1,671,731, 2,575,644, 2,843,353, 2,858,237, 2,867,047, 2,867,048, 2,886,760, 2,940,306, 2,970,918, 2,994,114, 3,022,847, 3,022,848, 3,191,653, 3,320,068, 3,320,069, 3,320,070, 3,326,223, 3,326,224, 3,326,225, 3,331,059 and 3,345,306 are incontestable.

4. Since long prior to August 29, 2013, Applicant's constructive first use date, Opposer and its predecessors, and their affiliated and related entities, licensees and/or sponsors have promoted and advertised the sale and distribution of goods and services bearing or offered in connection with Opposer's YANKEES Marks, including, but not limited to, baseball games

and exhibition services, and a wide variety of goods and services, including, but not limited to, apparel, including, without limitation, shirts, t-shirts, tank tops, sweatshirts, shorts, pants, sweatpants, jackets, hats, baseball caps, and footwear; jewelry; paper goods and printed matter; toys and sporting goods; and novelty items and have offered such goods and rendered such services in commerce.

5. As a result of the sales and promotion of its goods and services bearing or offered in connection with Opposer's YANKEES Marks, Opposer has built up highly valuable goodwill in Opposer's YANKEES Marks, and said goodwill has become closely and uniquely identified and associated with Opposer.

6. On August 29, 2013, Applicant filed the Application based on an intent to use, for Applicant's Mark in International Class 25 for "Clothing, namely, tee shirts, shirts, tank tops, sweatshirts, sweatpants, pants, jeans, jackets, coats, hats; footwear, namely, shoes, sneakers and boots."

7. Upon information and belief, Applicant did not use Applicant's Mark for the goods covered in the Application in United States commerce prior to its earliest constructive first use date of August 29, 2013.

8. The goods covered by the Application are identical and/or closely related to the goods offered and services rendered in connection with Opposer's YANKEES Marks.

9. Applicant's Mark so resembles Opposer's YANKEES Marks as to be likely, when used in connection with Applicant's goods, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant's goods have their origin with Opposer and/or that such goods are approved, endorsed or sponsored by Opposer or

associated in some way with Opposer. Opposer would thereby be injured by the granting to Applicant of certificates of registration for Applicant's Mark.

10. Opposer's YANKEES Marks are distinctive and famous and were so prior to August 29, 2013, Applicant's earliest constructive first use date. Registration of Applicant's Mark will also injure Opposer by causing a likelihood of dilution by blurring of the distinctive quality of Opposer's YANKEES Marks.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's Mark and requests that the opposition be sustained and said registrations be denied.

Please recognize as attorneys for Opposer in this proceeding Mary L. Kevlin, Richard S. Mandel, and Lindsay M. Rodman (members of the bar of the State of New York) and the firm Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, New York 10036.

Please address all communications to Mary L. Kevlin, Esq. at the address listed below.

Dated: New York, New York
July 18, 2014

Respectfully submitted,

COWAN LIEBOWITZ & LATMAN, P.C.
Attorneys for Opposer

By: /Lindsay M. Rodman/

Mary L. Kevlin
Richard S. Mandel
Lindsay M. Rodman
1133 Avenue of the Americas
New York, New York 10036
(212)790-9200

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on July 18, 2014, I caused a true and correct copy of the foregoing Notice of Opposition to be sent via First Class Mail, postage prepaid, to Applicant's Attorney and Correspondent of Record, Afschineh Latifi, Esq., Tucker & Latifi, LLP, 160 E. 84th St. Apt 5E, New York, New York 10028-0056.

/Lindsay M. Rodman/
Lindsay M. Rodman



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July 18, 2014

By Electronic Filing

Commissioner for Trademarks
Attn: TTAB
P.O. Box 1451
Alexandria, VA 22313-1451

Re: New York Yankees Partnership
Notice of Opposition Against
Nicholas Gamarello Apparel/Arts Brand, LLC
Application to register YANKEE DOG
Ref. No. 21307.033

Dear Commissioner:

We enclose a Notice of Opposition against Application Serial Number 86/051,614 published in the Official Gazette on January 21, 2014. Contemporaneously with the electronic filing of this Notice of Opposition, we are arranging for an electronic payment in the amount of \$300 to cover the filing fee.

If the amount received is insufficient and additional fees are required, please charge our Deposit Account No. 03-3415.

Please address all future correspondence to the attention of Mary L. Kevlin of Cowan, Liebowitz & Latman, P.C.

Respectfully submitted,

/Lindsay M. Rodman/
Lindsay M. Rodman

Enclosures

cc: Ms. Diane Kovach (w/encs.)
Mary L. Kevlin, Esq. (w/encs.)